



Mutual Fund Dealers Association of Canada
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MFDA Bulletin

Enforcement

For Distribution to Relevant Parties Within your Firm

MFDA imposes lifetime ban and fines totaling \$185,000 on Raymond Brown-John

Nature of Proceeding A Hearing Panel of the Mutual Fund Dealers Association (“MFDA”) Pacific Regional Council has imposed disciplinary penalties on Raymond Brown-John (“Brown-John”), a former Approved Person of the MFDA.

By-Laws, Rules, Policies Violated Following a hearing concluding on June 7, 2005, the Hearing Panel found that Brown-John:

1. Engaged in a series of frauds against two clients and took from those clients \$10,609.64, contrary to MFDA Rule 2.1.1(a).
2. Borrowed funds from a client totaling \$67,000 thereby creating a conflict of interest contrary to MFDA Rule 2.1.4(a).
3. Failed to produce copies of documents requested by the MFDA in the course of an investigation, contrary to section 22.1 of MFDA By-law No. 1; and
4. Agreed at an MFDA interview to provide documentation to the MFDA and failed to do so contrary, to section 24.1.1(g) of MFDA By-law No. 1.

MFDA Rule 2.1.1(a) states:

Each Member and each Approved Person of a Member shall:

- (a) deal fairly, honestly and in good faith with its clients;
- (b) observe high standards of ethics and conduct in the transaction of business;
- (c) not engage in any business conduct or practice which is unbecoming or detrimental to the public interest; and
- (d) be of such character and business repute and have such experience and training as is consistent with the standards described in this Rule 2.1.1, or as may be prescribed by the Corporation.

Section 22.1(b) of MFDA By-law No. 1 states:

For the purpose of any examination or investigation pursuant to this By-law, a Member, Approved Person of a Member or other person under the jurisdiction of the Corporation pursuant to the By-laws or the Rules may be required by the Corporation:

- (b) to produce for inspection and provide copies of the books, records and accounts of such person relevant to the matters being investigated;

Section 24.1.1(g) of MFDA By-Law No. 1 states:

A Hearing Panel of the applicable Regional Council shall have power to impose upon an Approved Person or any other person under the jurisdiction of the Corporation any one or more of the following penalties:

if, in the opinion of the Hearing Panel, the person:

- (g) has failed to carry out any agreement with the Corporation

Penalty

The Hearing Panel imposed the following penalties on Brown-John:

1. Permanent prohibition from conducting securities related business in any form or capacity;
2. A fine of \$150,000 with respect to the various frauds perpetrated on two clients and the conflict of interest respecting monies borrowed from a client;
3. A fine of \$10,000 for failing to produce for inspection and provide copies of documents requested by the MFDA;
4. A fine of \$25,000 for breach of an agreement with the MFDA to provide copies of documents; and
5. Costs of the investigation and hearing in the amount of \$10,000.00.

Summary of Facts

From 1999 until 2003, Brown-John was registered in British Columbia as a mutual fund salesperson. Starting in 1998, Partners in Planning (“PIP”) became the sponsoring dealer for Brown-John. Between 1999 and 2003, Brown-John stole approximately \$83,000 from the accounts of two clients by engaging in a series of frauds against them. The clients were both widows with no financial experience and little education who relied on Brown-John to guide them through the investment process. Although Brown-John took only \$10,609.64 from the clients’ accounts after May 9, 2002, which the Hearing Panel determined was the date that Brown-John became subject to the jurisdiction of the MFDA, the Hearing Panel noted that the entire amount of \$83,000 was relevant to the determination of the appropriate penalty to impose on Brown-John.

In May 2001, Brown-John borrowed a total of \$67,000 from one of the same clients from whom he had stolen money. The client loaned the funds to Brown-John by redeeming mutual fund investments held in her account. The client incurred deferred sales charges as a result of the redemptions. Brown-John provided the client with a promissory note but never repaid the loan. By borrowing funds from the client, Brown-John placed himself in a clear conflict of interest. The Hearing Panel noted that Rule 2.1.4(a) requires that if a conflict of interest arises “the member shall ensure that it is addressed by the exercise of responsible business judgment influenced only by the best interests of the client”. The Hearing Panel noted that “he did and said nothing and that was in breach of this Rule”.

On July 31, 2003, MFDA investigators requested that Brown-John provide copies of his personal bank statements for the period April 1, 2000 to February 1, 2003 by August 14, 2003. Brown-John failed to comply.

Subsequently, on August 20, 2003, Brown-John provided a portion of the requested material to the MFDA investigators. The Hearing Panel noted that “it is essential for professional self-regulation that the professional co-operate with the regulator. To fail in this regard is contrary to the public interest”. The Hearing Panel noted that the fact that Brown-John had provided some of the requested materials to the investigators was relevant only to the consideration of the appropriate penalty to impose on him.

On August 20, 2003, Brown-John attended at the offices of the MFDA to be examined by MFDA investigators. During the examination, Brown-John agreed to provide the investigators with the remaining bank statements on or before September 22, 2003. Although Brown-John did provide a portion of the promised bank statements on September 22, 2003, he failed to fully comply with the agreement.

For greater detail, see the Decision and Reasons, dated June 27, 2005, and the Order, dated August 22, 2005, posted on the MFDA website under “Enforcement”.